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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

Brent Middleton As Trustee of the  
National Financial Systems  
Management, Inc. Employee Stock  
Ownership Plan; Brent Middleton;  
Jamie Sorensen; Mike Medell & Mike  
Stott, plaintiffs,  
vs.  
J. Hoyt Stephenson, defendant,  
counterclaimant & third party plaintiff  
vs.  
Brent Middleton, Trustee; Brent  
Middleton; Jamie Sorensen; Mike  
Medell; National Financial Systems,  
Inc.; Bailey Hall; Thrive National; Thrive  
National Corporation; Thrive Systems,  
Inc.; Eric Gerdes; George Ulrich;  
Darwin Nelson; Scott Mee; Ben  
Staples; National Financial Systems  
Management, Inc. Employee Stock  
Ownership Plan, Counterclaim and  
Third Party Defendants

**NOTICE OF APPEAL**

2:11-cv-00313-TS

Judge Ted Stewart

Defendant, Counterclaimant and Third-Party Plaintiff J. Hoyt Stephenson ("Stephenson") hereby gives notice that he hereby appeals to the United States Court of Appeals for the Tenth Circuit from the Memorandum Decision and Order Granting Motions to Dismiss dated June 14, 2012 (Dkt 96) and the judgment entered by the Clerk of Court on June 18, 2012 (Dkt 97) to the extent that the decision, order and judgment grants the motions to dismiss of the Thrive Parties (Dkt 60) and the motion to dismiss of the plaintiffs and third parties (Dkt 72) based on lack of diversity jurisdiction; and that Stephenson appeals the Memorandum Decision and Order Denying Motion for Reconsideration dated September 28, 2012 (Dkt 111) which denied reconsideration of the prior orders based on lack of diversity jurisdiction.

Date: October 29, 2012

/s/ David K. Isom

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**Certificate of Service**

The undersigned hereby certifies that on this 29<sup>th</sup> day of October 2012, a true and correct copy of the foregoing Notice of Appeal was served by ECF upon all counsel of record.

/s/ David K. Isom

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